

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RALPH LEONARD	§	
VS.	§	CIVIL ACTION NO. 6:10cv611
WINDELL WARREN	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie. The Report and Recommendation (docket entry #38) of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, concludes that Defendant's motion for summary judgment (docket entries #33, 34 and 37), seeking that this civil rights action be dismissed with prejudice as unexhausted, be granted. The Plaintiff has filed written objections (docket entry #40). Although Plaintiff focuses on objecting to the original motion for summary judgment in his objections instead of the R&R, he filed no opposition to the summary judgment motion originally and held his objections until after the R&R issued. Therefore, the Court will treat the objections as against the R&R itself.

Plaintiff has nonetheless ignored the main thrust of both the motion for summary judgment and the R&R. That is, he failed to exhaust his administrative remedies in his Step 1 and Step 2 grievances, which did not even identify Defendant Warren. He has simply re-argued his substantive claims regarding his medical condition and that his housing assignment restrictions were ignored. That does not satisfy the exhaustion requirement in any way or demonstrate why the R&R is incorrect or should not be adopted.

The Court has conducted a careful *de novo* review of the pleadings in this case, the Report

of the Magistrate Judge, the Plaintiff's objections thereto, and all other documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that Plaintiff's objections are **OVERRULED** and the Report of the Magistrate Judge is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that Defendant Warren's Motion for Summary Judgment (docket entries #33, 34 and 37) are hereby **GRANTED** and that this action pursuant to 42 U.S.C. § 1983 is hereby **DISMISSED WITH PREJUDICE** as unexhausted. Plaintiff shall take nothing; each party is responsible for his own costs. It is finally

ORDERED that any and all other motions that may be pending in this civil action are hereby **DENIED**.

So ORDERED and SIGNED this 11th day of April, 2012.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE